

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In re)	
)	
Auction of FM Broadcast Construction)	DA 11-1513
Permits Scheduled for March 27, 2012)	AU Docket No. 11-146
Comment Sought on Competitive Bidding)	
Procedures for Auction 93)	

To: The Secretary
Attn: Wireless Telecommunications Bureau, Auctions and Spectrum Access Division

REPLY COMMENTS

Three Rivers Broadcasting, LLC. ("Three Rivers") files these Reply Comments in response to the Commission's Public Notice, dated September 12, 2011, *Auction of FM Broadcast Construction Permits Scheduled for March 27, 2012, Comment Sought on Competitive Bidding Procedures for Auction 93*, DA 11-1513 (the "Public Notice")¹.

In the Public Notice, the Commission solicited comments concerning procedures for the upcoming auction of FM construction permits.

Three Rivers hereby submits comments in reference to Construction Permit MM-FM936-A for Channel 257A at Grants Pass, OR. Three Rivers believes the minimum opening bid of \$35,000 is grossly too high for this allotment and further requests the commission to lower the minimum opening bid to better reflect the true value of the proposed Construction Permit. It is believed the hills and valley in the surrounding area of Grants Pass would greatly limit a Class A signal, and will certainly cause the station at that power to have diminished value. It is also believed that population served was not considered appropriately as other construction permits being offered during Auction 93 have much higher populations served, with much lower minimum bids - some as much as forty six times less.

It is further believed that the process for determining the minimum opening bid amounts is unfair and makes it next to impossible for a small broadcaster to provide new, localized broadcast programming to their community.

Grants Pass is the county seat of Josephine County, OR – a depressed timber area with nearly ten percent unemployment and an estimated median household income of

¹ FCC, AU Docket No. 11-146

only \$34,754². Currently, Grants Pass is served by only one commercial FM station.

In June of 2010, Three Rivers filed FCC Form 301 proposing allotment of channel 257A at Grants Pass, OR³. The Proposed Petition for Rule Making was granted on September 24, 2010 by the FCC and was effective November 12, 2010. The FM Table of Allotments was then amended to reflect Channel 257A at Grants Pass, OR⁴.

It is important to note that prior to our Petition for Rule Making to allot channel 257A at Grants Pass, no interest had been shown in allotting this channel at Grants Pass.

Three Rivers believes the minimum opening bid is grossly too high when population and terrain are considered, and does not reflect the true value of this construction permit. Further, it is believed that by having the minimum opening bid at this amount will result in the construction permit going unsold at Auction 93, and continuing to remain vacant.

If the minimum opening bid is greatly reduced, Three Rivers will proceed with the bidding and if awarded, the construction of Grants Pass's second commercial FM station, thereby serving the public interest with localized radio broadcast programming.

It is interesting to note that Construction Permit MM-FM939-C2 Terrebonne, OR, being offered in Auction 93 has a minimum opening bid of \$750⁵. This Construction Permit is for a Class C-2 station, and covers a population of 140,004 persons. The construction permit for Grants Pass is for a Class A station, and covers only 83,984 persons – however, the minimum opening bid for Grants Pass is forty six (46) times higher than that at Terrebonne. As such, Three Rivers requests that the minimum opening bid for the Grants Pass, OR permit be reduced to the fair amount established at Terrebonne, \$750.

Proposed Auction Procedure Adjustment

Three Rivers believes that the procedures for auction of FM broadcast construction permits does not favor the small, localized broadcaster. It is believed that prospective participants in a permit auction should be required to pay a fee for each permit they chose to bid on at the FCC Form 175 stage. This would eliminate “blanket” applications for any and every permit offered at auction, many of which still go unsold.

Currently, once a participant files FCC Form 175 and shows interest in a particular permit, it triggers “mutual exclusivity” and requires the permit to go to auction. At that point, typically a large minimum opening bid is then required to be submitted. More often than not, the parties who “blanket” apply for multiple permits do not actually participate in those auctions. This then in turn, actually eliminates the truly interested parties due to the high upfront payments - who otherwise would have been a singleton applicant.

² http://www.city-data.com/county/Josephine_County-OR.html

³ FCC, File No. BNPH-20100329AAD.

⁴ FCC, DA 10-1805

⁵ FCC Auction 93 - FM Broadcast, DA 11-1513, Attachment A, MM-FM939-C2, Terrebonne, OR.

It is believed that by requiring a fee for each construction permit applied for during the FCC Form 175 process would eliminate many of the mutually exclusive applicants, and actually result in more construction permits being granted. This would then better provide localized broadcasting content to smaller communities nationwide.

This has been a long time goal of the Commission, however the current auction procedures are not realistic in providing an opportunity to meet this goal. It is further believed that the current auction procedures hinder the ability of small broadcasters from entering a market and providing localized content due to the current auction procedures. If an entity is truly interested in a construction permit, they will be willing to pay the fee to apply for it. Then, in turn, if mutual exclusivity still exists between two or more parties an auction should be required. Otherwise, if only a singleton applicant applies for a construction permit, they should be awarded the construction permit and not have to pay the large upfront "fee".

It is believed that the minimum opening bid procedures currently in place may well be the sole factor in hindering small, localized broadcasters from providing content to their communities.

In consideration of the comments listed above, Three Rivers requests that the minimum opening bid for construction permit MM-FM936-A for Channel 257A at Grants Pass, OR be reduced to 750\$ - an equitable amount considering the construction permit being offered at Terrebonne, OR and others in Auction 93. It is further requested that the Commission change the current auction procedures by requiring a fee for each Construction Permit selected during FCC Form 175 selection, thereby reducing the amount of mutually exclusive permit applications and in turn - unsold permits.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Casey', with a stylized flourish at the end.

Casey McIntosh
Three Rivers Broadcasting, LLC.
October 7, 2011